

WAC Sections

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**246-889-020**

**Precursor substance defined.**

(1) For the purpose of this chapter a precursor substance is any of the following substances or their salts or isomers:

- (a) Anthranilic acid;
- (b) Barbituric acid;
- (c) Chlorephedrine;
- (d) Diethyl malonate;

- (e) D-lysergic acid;
- (f) Ephedrine;
- (g) Ergotamine tartrate;
- (h) Ethylamine;
- (i) Ethyl malonate;
- (j) Ethylephedrine;
- (k) Gamma-butyrolactone (GBL);
- (l) Hydriodic acid;
- (m) Lead acetate;
- (n) Malonic acid;
- (o) Methylamine;
- (p) Methylformamide;
- (q) Methylephedrine;
- (r) Methylpseudoephedrine;
- (s) N-acetylanthranilic acid;
- (t) Norpseudoephedrine;
- (u) Phenylacetic acid;
- (v) Phenylpropanolamine;
- (w) Piperidine;
- (x) Pseudoephedrine; and
- (y) Pyrrolidine.

Provided; that this definition shall not include any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine or any cosmetic if that drug or cosmetic can be lawfully sold, transferred, or furnished over-the-counter without a prescription or by a prescription under chapter [69.04](#) or [69.41](#) RCW.

(2) The board finds that the reference to methylformanide in RCW [69.43.010](#), was intended to refer to methylformamide and corrects that reference by deleting "methylformanide" and adding "methylformamide." This change is based upon the finding that this revision conforms to the tests set forth in RCW [69.43.010](#)(2).

(3) Registrants should be aware that precursor substances in subsection (1)(a), (f), (k), (l), (n), (o), (p), (t), and (w) of this section are also regulated as schedule II immediate precursors pursuant to WAC [246-887-150](#) and all applicable rules and laws governing the distribution of schedule II controlled substances must also be complied with.

[Statutory Authority: RCW [69.43.050](#), [18.64.005](#). 02-18-024, § 246-889-020, filed 8/23/02, effective 9/23/02. Statutory Authority: RCW [18.65.005](#) and [18.64.005](#). 94-07-105, § 246-889-020, filed 3/18/94, effective 3/18/94. Statutory Authority: RCW [69.43.050](#). 92-12-035 (Order 277B), § 246-889-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW [18.64.005](#) and chapter [18.64A](#) RCW. 91-18-057 (Order 191B), recodified as § 246-889-020, filed 8/30/91, effective 9/30/91. Statutory Authority: 1988 c 147 § 5. 88-14-096 (Order 218), § 360-38-010, filed 7/6/88.]

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#### **246-889-030**

##### **Reports of precursor receipt.**

(1) Any manufacturer, wholesaler, retailer, or any other person who receives from any source outside the state of Washington any precursor substance listed in WAC [246-889-020](#) shall submit a report of such transaction within fourteen days of the receipt of that substance.

(2) The report shall contain the following information:

(a) Name of substance;

(b) Quantity received;

(c) Date received;

(d) Name and address of firm or person receiving substance; and

(e) Name and address of the source selling, transferring, or furnishing the substance.

(3) The report shall be on a form approved by the board: Provided, That in lieu of an approved form the board will accept a copy of an invoice, packing list, or other shipping document which contains the information set forth in subsection (2) of this section. Under this option purchase price information appearing on the document can be deleted.

[Statutory Authority: RCW [69.43.050](#). 92-12-035 (Order 277B), § 246-889-030, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW [18.64.005](#) and chapter [18.64A](#) RCW. 91-18-057 (Order 191B), recodified as § 246-889-030, filed 8/30/91, effective 9/30/91. Statutory Authority: 1988 c 147 § 5. 88-14-096 (Order 218), § 360-38-020, filed 7/6/88.]

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#### **246-889-040**

##### **Monthly reporting option.**

(1) Permit holders who regularly transfer the same precursor substance to the same recipient can apply to the board for authorization to submit the report of said transactions on a monthly basis. Requests for monthly reporting authorization must be received at the board office at least thirty days prior to the board meeting at which the request will be considered. The board will

review each request to determine if the requirements of RCW [69.43.010](#)(5), are met and will notify the permit holder of its decision and the reporting format that will be authorized.

(2) Permit holders may also petition the board to accept the monthly report on a computer-generated basis. The report can be furnished in hard copy, on board-approved data storage methods or by computer interface with a board-operated computer. The permit holder will be responsible for the accuracy of the report and the prompt correction of any data entry or transmission errors.

(3) The authorization to use monthly reports or computer-generated monthly reports can be rescinded at the board's discretion and with thirty days notice.

[Statutory Authority: RCW [69.43.050](#). 92-12-035 (Order 277B), § 246-889-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW [18.64.005](#) and chapter [18.64A](#) RCW. 91-18-057 (Order 191B), recodified as § 246-889-040, filed 8/30/91, effective 9/30/91. Statutory Authority: 1988 c 147 § 5. 88-14-096 (Order 218), § 360-38-030, filed 7/6/88.]

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#### **246-889-050**

##### **Suspicious transactions and reporting requirements.**

(1) A manufacturer or wholesaler who sells, transfers, or furnishes a regulated product to any licensee shall report any suspicious transaction in writing to the state board of pharmacy.

(2) For the purpose of this rule, a regulated product is defined as a product specified in RCW [69.43.010](#)(1) or WAC [246-889-020](#).

(3) For the purposes of this rule, a "suspicious transaction" is defined as any sale or transfer that meets any of the following criteria:

(a) Any sale or transfer that would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully manufacturing a controlled substance under chapter [69.50](#) RCW, based on such factors as:

(i) The amount of the substance involved;

(ii) The method of payment;

(iii) The method of delivery; or

(iv) Any past dealings with any participant in the transaction.

(b) Any sale or transfer involving payment for a regulated product in cash or money orders in a total amount of more than two hundred dollars.

(c) Any sale or transfer of a regulated product that meets the criteria identifying suspicious orders in the U.S.

Department of Justice, Drug Enforcement Administration, Diversion Control Program Report of the Suspicious Orders Task Force. Copies of the publication are available upon request from the board of pharmacy.

(d) Any individual sale or transfer of a regulated product that exceeds ten percent of the nonprescription drugs contained in the order. (Example: If a wholesaler sells three thousand dollars worth of products to a shopkeeper and that order contains one thousand dollars worth of nonprescription drugs, the wholesaler must submit a suspicious transaction report if the order contains over one hundred dollars worth of regulated products.)

(e) Any order which contains regulated products and has no additional nonprescription drugs is considered a suspicious transaction.

(4) For the purposes of this rule, nonprescription drugs are defined as those drugs which may be sold at retail without a prescription for the diagnosis, treatment, cure or prevention of any disease that has been approved by the FDA and bears an appropriate label. An over-the-counter (OTC) drug is the same as a nonprescription drug.

The following are examples of products sold at retail which are not defined as OTC drugs:

(a) Cosmetics;

(b) Food, dietary, and vitamin supplements;

(c) Herbs;

(d) Products that carry the statements "this product is not intended to diagnose, treat, cure or prevent any disease" or "not evaluated by FDA."

(5) The written report of a suspicious transaction shall contain, at a minimum, the following information:

(a) Name, address and phone number of the manufacturer and/or wholesaler making the report;

(b) Washington state license number of the wholesaler;

(c) Washington state Unified Business Identifier (UBI) number of the recipient of the suspicious transaction;

(d) Trade/brand name of regulated product;

(e) Generic name of regulated product's active ingredients;

(f) Name, address and phone number of the recipient of the suspicious transaction;

(g) Quantity of substance purchased, transferred, or furnished, by number of units and doses per unit;

(h) Date of purchase or transfer;

(i) Method of payment of the substance;

(j) Lot number if available; and

(k) National Drug Code Number if available.

[Statutory Authority: RCW [18.64.005](#) and [69.43.035](#). 07-23-018, § 246-889-050, filed 11/9/07, effective 12/10/07. Statutory Authority: RCW [69.43.035](#) and [18.64.005](#)(7). 03-13-027, § 246-889-050, filed 6/10/03, effective 7/11/03.]

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#### **246-889-070**

#### **Retail sales logs for ephedrine, pseudoephedrine, and phenylpropanolamine products.**

##### **Purpose.**

The legislature has recognized that restricting access to ephedrine, pseudoephedrine, and phenylpropanolamine products, or their salts or isomers, is a valid method to reduce the availability of these products for the illegal manufacture of methamphetamine. To reduce the illegal use of these products in the manufacture of methamphetamine, while continuing access for legitimate purposes, the legislature directed the board to adopt rules for the recording of retail sales involving ephedrine, pseudoephedrine or phenylpropanolamine products. The record of sales must be collected and maintained in a written or electronic log or other alternative means. Data from this log will be used to determine if the log is an effective law enforcement tool and if the information received is an effective deterrent to criminal activity. The following rules describe the requirements for the transaction logs.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-070, filed 12/22/05, effective 1/1/06.]

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#### **246-889-075**

#### **Definitions.**

(1) "Ephedrine, pseudoephedrine, and phenylpropanolamine products" means any product containing any detectable quantity of ephedrine, pseudoephedrine or phenylpropanolamine.

(2) "Retailer" means a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW, or an employee, a practitioner as defined in RCW [18.64.011](#), or a traditional Chinese herbal practitioner as defined in chapter [69.43](#) RCW.

(3) "Sale" means the sale, transfer, or otherwise furnishing of any ephedrine, pseudoephedrine, or phenylpropanolamine product to any person.

(4) "Law enforcement" means any general or limited authority Washington peace officer.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-075, filed 12/22/05, effective 1/1/06.]

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#### **246-889-080**

##### **Records of sale.**

**Exemptions.** You must keep a record of a sale except when:

- (1) The sale of any product containing ephedrine, pseudoephedrine or phenylpropanolamine that is in liquid, liquid capsule, or in a gel capsule form and is combined with another active ingredient.
- (2) The sale of any ephedrine, pseudoephedrine or phenylpropanolamine product that is sold via a prescription written by an authorized practitioner.
- (3) The sale of any ephedrine, pseudoephedrine, or phenylpropanolamine product is recorded in a pharmacy profile and the profile is maintained by the pharmacy. The profile must be the individualized record for the purchaser, containing identifying information, including, but not limited to, name, address, date of purchase, purchaser's date of birth, and product description.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-080, filed 12/22/05, effective 1/1/06.]

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#### **246-889-085**

##### **Requirements for the sale of an ephedrine, pseudoephedrine, or phenylpropanolamine product.**

Unless exempted in WAC [246-889-080](#), a retailer must:

- (1) Review the purchaser's photo identification. The photo identification must include the date of birth of the purchaser. The purchaser must be eighteen years of age or older.
- (2) Record the information detailed in WAC [246-889-095](#) for the record of transaction.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-085, filed 12/22/05, effective 1/1/06.]

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#### **246-889-090**

##### **Acceptable forms of photo identification.**

To be an acceptable form of identification, the identification must be issued by a government agency and include the person's photograph, name, address, date of birth, and signature. The following are acceptable forms of identification:

- (1) A driver's license or instruction permit issued by any U.S. state or province of Canada. If the customer's driver's license has expired, he/she must also show a valid temporary driver's license with the expired card.
- (2) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.
- (3) A merchant marine identification card issued by the United States Coast Guard.
- (4) A state liquor control identification card. An official age identification card issued by the liquor control authority of any U.S. state or Canadian province.
- (5) A state identification card issued by any U.S. state or province of Canada.
- (6) An official passport issued by any nation.
- (7) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses and are recognized by the liquor control board.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-090, filed 12/22/05, effective 1/1/06.]

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#### **246-889-095**

##### **Record of sale.**

Information required. The retailer must record:

- (1) Date of purchase;
- (2) Name of the purchaser;
- (3) Date of birth of the purchaser;
- (4) Type of identification, agency issuing the identification, and the identification number if applicable; and
- (5) Number of packages and the number of tablets per package.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-095, filed 12/22/05, effective 1/1/06.]

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**246-889-100****Methods for collecting, recording, and storing records of sales data.**

Sales records must be maintained on a written or electronic log and must be readily retrievable and contain all information required in WAC [246-889-095](#). Methods other than electronic or written must be approved in advance by the board of pharmacy and must contain all the information required for a written or electronic log and be retained for the same period of time as a written or electronic log.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-100, filed 12/22/05, effective 1/1/06.]

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**246-889-105****Record retention and destruction.**

The retailer must maintain transaction records for two years. Sales records may be destroyed after the retention period of two years. When records are destroyed, the records must be destroyed in a manner that leaves the record unidentifiable and nonretrievable.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-105, filed 12/22/05, effective 1/1/06.]

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**246-889-110****Access to retail records of sales.**

Records of sales are confidential and are only open to inspection by the board of pharmacy and law enforcement agencies. The retailer does not have to transmit records to law enforcement or the board of pharmacy. Law enforcement and/or the board of pharmacy will request and obtain records if they are needed. Retailers shall also produce the records in a court whenever lawfully required to do so.

[Statutory Authority: RCW [69.43.170](#), [18.64.005](#). 06-02-010, § 246-889-110, filed 12/22/05, effective 1/1/06.]